



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

December 4, 2024

By ECF

The Honorable Denise L. Cote
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *American Civil Liberties Union Foundation v. United States Immigration and Customs Enforcement, et al.*, No. 24 Civ. 7444 (DLC)

Dear Judge Cote:

This Office represents Defendants United States Immigration and Customs Enforcement (“ICE”), United States Department of Homeland Security (“DHS”), United States Customs and Border Protection (“CBP”), and United States Department of Justice (“DOJ”) in the above-referenced action. Plaintiff American Civil Liberties Union Foundation brings suit pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). The parties jointly request that the initial pretrial conference scheduled for December 6, 2024, be adjourned *sine die* and that the parties be permitted to submit joint status letters to the Court every 30 days, beginning December 18, 2024. The parties may seek the Court’s assistance—whether as part of the monthly status updates or otherwise—if they are not able to resolve any issues informally. This is the parties’ first request for an adjournment of this conference.

The parties are working to resolve issues in this case consensually and have neared an agreement by which Defendants will provide what they contend is an appropriate response to Plaintiff’s FOIA requests. The parties will update the Court further in the proposed December 18, 2024, status letter.

Because this is a FOIA action, the parties understand Local Civil Rule 16.1 to exempt this case from the mandatory scheduling order requirement contained in Federal Rule of Civil Procedure 16(b). The parties expect that this case, like most FOIA cases, will be resolved through settlement or on cross-motions for summary judgment without the need for discovery. *See Wood v. F.B.I.*, 432 F.3d 78, 84-85 (2d Cir. 2005). As a result, the parties anticipate that they can productively move this case toward resolution without the need for the Court’s assistance at this stage. Plaintiff, however, reserves the right to seek discovery if unanticipated issues and disputes arise. *See, e.g. Fams. for Freedom v. U.S. Customs & Border Prot.*, 837 F. Supp. 2d 331, 336–37 (S.D.N.Y. 2011) (authorizing discovery in FOIA case).

Accordingly, the parties respectfully request that the Court adjourn the December 6, 2024, conference and permit them to submit joint status reports every 30 days, beginning on December 18, 2024, as they work to resolve any issues without further litigation. Should the parties reach an impasse as to any issues, including on the process of producing documents or on the merits of

whether Defendants have complied with their FOIA obligations, the parties will identify those issues in a joint status report.

We thank the Court for its consideration of this request.

Respectfully,

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